

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SKYLINE POTATO COMPANY, Inc.

Plaintiff,

v.

Civil Action No. 1:10-cv-00698

TAN-O-ON MARKETING, Inc., et al.

Defendant.

**MOTION IN OPPOSITION TO DISMISSAL OF
HILAND POTATO COMPANY, INC. AND CARL WORLEY**

COME NOW GERALD and JULIE ANDERSON by and through their attorney SHANNON ROBINSON and state as grounds for their Motion in Opposition to the Dismissal of Co-Defendants Hi-Land Potato Company, Inc. and Carl Worley and state as grounds therefore the following:

1. That Plaintiff Skyline Potato Company, Inc. alleged fraudulent conduct on behalf of Defendants Hi-Land Potato Company, Inc. and owner Carl Worley.
2. Because of the discovery of evidence that indicates these allegations are in fact true, Defendants Gerald and Julie Anderson now object to the Dismissal of Defendants as perpetrators of a fraud on Gerald and Julie Anderson through a scheme to use Tan-O-On Marketing, Inc. as a shell corporation to place PACA orders for perishable goods and not pay the shipper.
3. During his personal bankruptcy proceedings Shannon Casey was asked under oath whether the letter announcing a merger or transfer of marketing opportunities to Hi-Land Potato Company, Inc. actually occurred. Under oath Mr. Casey denied the letter stating this intention ever reached fruition and that

it was a business plan that actually was abandoned or never happened. That letter is attached hereto as Exhibit "A"

4. Defendants have received evidence through recent PACA filings for nonpayment that would indicate that Hi-Land Potato Company, Inc. did in fact place PACA orders using the name of Tan-O-On Marketing, Inc. even though the name of the billing is Tanoon Marketing, Inc. the address is correct. An example of a potato shipping order is attached hereto as Exhibit "B" to this Motion.
5. This is proof of a larger corporate fraud that violates the PACA rules and regulations and the laws of interstate commerce perpetrated by Hiland Potato Company, Inc. and owner Carl Worley.
6. Exhibit "B" is just one example of fraud perpetrated by Defendants Hi-Land Potato Company, Inc. and Carl Worley. Skyline Potato is one of the victims of this fraud and Gerald and Julie Anderson are also victims.
7. The Answer filed by Defendants Gerald and Julie Anderson admitted that fraud was likely to have occurred concerning Tan-O-On Marketing, Inc. however after September 1, 2009 when they could not exercise control over the finances of Tan-O-On Marketing, Inc.
8. If Skyline Potato Company, Inc. wishes to abandon the fraud action they alleged through a sworn complaint then Defendants Gerald and Julie Anderson must assert the fraud claim themselves as individual victims.
9. Defendants Gerald and Julie Anderson object to the Plaintiff's Motion for an Order to Dismiss and further will move this Court for an Order Allowing

Defendants Gerald and Julie Anderson to file an Amended Answer and Cross-Claim.

WHEREFORE, the Order to Dismiss should be denied.

Respectfully submitted,

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

SHANNON ROBINSON
Attorney for Gerald & Julie Anderson
1121 4th St. N.W., Suite 1-A
Albuquerque, New Mexico 87102
(505) 998-6600
(505) 998-6603 facsimile

I hereby certify that a copy of the foregoing
was delivered to opposing counsel this
 1 day of October, 2010.

A large, stylized handwritten signature in black ink, similar to the one above, with multiple loops and a long horizontal stroke.
SHANNON ROBINSON

12/28/2009

To: Terry Wright and TMI Northwest and TW Logistics

From: Shannon Casey and TMI

208-585-7107

RE: Consolidation of TMI

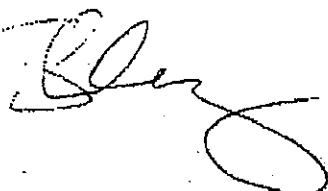
As you are all aware there has been some turmoil in regards to my purchase of the company. Due to the nature of these problems I have had to search for alternative ways to conduct business and for the time being that has been to operate from Hi Land Potato Co. in Monte Vista. We have had meetings here to discuss the best possible way to operate and service our customers and being in house sales persons operating as an outside sales company is not the best way to do this. With that in mind we will be consolidating Tan-O-on Marketing, Inc. with Hi Land Potato Co. to become simply that, Hi Land Potato Co. The target date for this is January 15th, 2010.

With this being said it has come as a unanimous decision that we will cease operations of TMI NW effective the same date. This has been a gut wrenching decision for me to make, however, these are not my decisions to make any longer only my responsibility to execute the decisions as they pertain to TMI. I am certain that there are many questions in regards to this and over time there will be more, I will do my best to address the largest of the issues with this memo.

1. All salaries and commissions on paid invoices will be paid and as invoices are paid after the 15th of January those will be taken care of as well.
2. All vendors will be paid, I want to be clear this is a consolidation this is not bankruptcy or closing the doors on the business and I do not want this to be poised this way to the vendor community.
3. This is not a performance issue nor is it personal or malicious in any regards, TW Logistics and TMI have had a strong working relationship for the last 3+ years and I would expect that at the very least a cordial relationship after we cease operations.
4. An issue of ethics is involved here as well and it is my hope that no malicious information is spread in regards to TMI or its directors and to further that I would hope that no false or damaging information be spoken of Hi Land Potato Co.

I do realize that this is a tough pill to swallow and if I had to write this chapter personally this is not the way that I would have it end up. I will do all that I can to support and back everyone affected by this unfortunate set of circumstances. Please call me at anytime if you have anything further to discuss.

Respectfully,



EXHIBIT

A

HI-LAND POTATO COMPANY, INC
 2468 EAST CTY RD 6 NORTH
 MONTE VISTA, CO 81144

Invoice



Date	Invoice #
4/21/2010	1080H

Bill To
Tanoon Marketing Inc. 7110 2ND STREET NW #104 ALBUQUERQUE, NM 87107

Ship To
RIVER CITY PRODUCE 1616 SO. LAREDO STREET SAN ANTONIO, TX 78207

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
1462			11/2/2009			
Quantity	Item Code	Description			Price Each	Amount
1	Potato Sales	LOAD SHIPPED ON 11/02/09 RIVER CITY #188080			4,362.37	4,362.37
					Total	\$4,362.37

EXHIBIT

B